

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Andre Smiley,

Plaintiff,

v.

Actor Holly Berry,

Defendant.

Case No. 1:14cv209

Judge Michael R. Barrett

**ORDER**

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on March 13, 2014 (Doc. 4).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation (Doc. 4) in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation (Doc. 4) have been filed.

Accordingly, it is **ORDERED** that the Report and Recommendation (Doc. 4) of the Magistrate Judge is hereby **ADOPTED**. The Plaintiff's Complaint (Doc. 3) is **DISMISSED** with prejudice.

The Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of any Order adopting this Report and Recommendation (Doc. 4) would not be taken in "good faith," and therefore **DENIES** petitioner leave to appeal in *forma pauperis*. Plaintiff is free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d

800, 803 (6<sup>th</sup> Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6<sup>th</sup> Cir. 1997).

**IT IS SO ORDERED.**

s/Michael R. Barrett  
Michael R. Barrett  
United States District Judge